



Center for Community Change

TESTIMONY OF ED GRAMLICH Center for Community Change

House Financial Services Committee
Subcommittee on Housing and Community Opportunity
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The Community Development Block Grant Renewal Act of 2001 HR 1191

I appreciate the invitation to testify today. I am Ed Gramlich, Research and Community Development Specialist at the Center for Community Change (CCC). The Center is a national non-profit organization that for 33 years has provided technical assistance to low income, community-based organizations around a variety of issues such as: housing, housing trust funds, public housing, community reinvestment, transportation, and education. We work on the ground in approximately 250 low income communities around the nation; therefore, we are very familiar with the impact of various federal policies on low income people.

Since the beginning of the CDBG program in 1974, CCC has played a national leadership role, helping low income groups to be fully informed about CDBG law, regulation, and HUD Policy Issuances. On a personal note, CDBG has been at the core of my work since the funds were first distributed in 1975. With the knowledge we provide, low income, community-based groups are better able to effectively engage CDBG's public participation process and to influence the local allocation of this resource so that more of it meets the pressing needs of low income people.

Based on the problems CCC observes in its daily CDBG work with low income organizations, we fully support and endorse the provisions of the "Community Development Block Grant Renewal Act", H.R. 1191. The testimony presented here utilizes CCC's daily experience to explain the specific CDBG problems that low income people encounter and describe how the features of H.R. 1191 would help to address those problems.

The problems that H.R. 1191 seeks to address are not limited to one or two locales. Because of CCC's direct work with low income, community-based groups all across the nation, we know that the problems encountered exist at all points of the compass, in jurisdictions of various sizes, over all periods of time, and regardless of the Administration in office.

The modifications H.R. 1191 seeks are not radical. The amendments sought by H.R. 1191 are firmly rooted in the historical “Primary Objective” of the Housing and Community Development Act of 1974:

“The **primary objective** of this title and of the community development program of each grantee under this title is the development of viable urban communities, by providing decent housing, and suitable living environment and expanding economic opportunities, **principally for** persons of low and moderate income.”

The CDBG program has diverged from its Primary Objective by becoming unduly “place based”, forgetting the law’s goal of making places better principally for lower income people.

The CDBG program has also lost its anchorage in the Primary Objective and its historic origins as a “Special Revenue Sharing” program by becoming a “general revenue sharing program”. Created in the era of “New Federalism” both CDBG and the original General Revenue Sharing Program had similar but distinct goals. Both were designed to be flexible. Both were intended to allow local residents to decide how best to utilize federal funds.

A key distinction between CDBG and GRS was that CDBG was “special revenue sharing”, a program of federal funding intended to address the special needs of lower income people and the communities in which they lived. Since the demise of the actual General Revenue Sharing Program, many jurisdictions have treated CDBG as GRS; some even refer to CDBG as a “general revenue sharing” program. Consequently, the extraordinary needs, the “special” needs of lower income people are largely lost in the local allocation of CDBG monies.

Ironically, as a “New Federalism” program, a mechanism for devolution, the CDBG program continues to fail to ensure that people at the local level are fully involved in the decision-making process. Low income people are not genuinely involved in the CDBG planning and allocation process; they are not “encouraged” to participate as required by law and consistent with the notions of devolution. H.R. 1191 offers two features which can ameliorate this deficiency.

We reiterate our assertion that the provisions of H.R. 1191 do not represent a fundamental deviation from the basic tenets of the Act. Some of the modifications merely insert quotes from long-established language in the regulations in order to lend more weight in the daily implementation of the program’s Primary Objective. Two of the proposed amendments are similar to changes proposed in 1989 by HUD Assistant Secretary for Community Planning and Development, Anna Kondratas. Therefore, the features of H.R. 1191 can be viewed as an excellent bipartisan approach to achieving the Primary Objective and principally benefiting lower income people.

A. Raising the "Primary Objective" to 80% Benefit to Low and Moderate Income People

The Problem

Given the increasingly severe shortage of affordable housing, the growing loss of public housing units, and the changes in welfare law, pressures on low income people are more acute than ever. Yet CDBG, a key resource for helping to address the affordable housing and other needs of low and moderate income people, is too often used in ways that do not meet their needs.

CDBG is used to support the development of U.S. Post Office facilities (*Newark, NJ, Jersey City NJ, Ft. Lauderdale FL, and St. Mary's County, MD*), repair airport runways (*\$200,000 in Riverside County, CA*), renovate museums (*\$243,000 in Scranton PA*), and pour miles of concrete in many many jurisdictions.

Current Law

Since its inception in 1974, the "Primary Objective" of CDBG has been to improve communities by providing decent housing, a suitable living environment, and expanding economic opportunities -- all "**principally for low and moderate income people**". The statute currently requires that, at a minimum, 70% of a jurisdiction's CDBG be used to benefit low and moderate income people.

Proposed Change

H.R. 1191 will raise the "Primary Objective" to 80% from 70%.

How the Change Will Help Low Income People

H.R. 1191 highlights and strengthens Congress' intent that CDBG "principally" benefit lower income people, and it signals to jurisdictions that uses for activities such as airport runways, post offices, and museums are not consistent with that intent.

CCC's Views Regarding Two Concerns That Might Be Raised

Some might argue that the "Primary Objective" should not be raised to 80% for two reasons: 1) jurisdictions already spend over 90% of their CDBG in ways which benefit low and moderate income people; and, 2) jurisdictions' flexibility would be hindered. CCC thinks that both are exaggerations, as explained in the following paragraphs.

“Over 90% of CDBG Benefits Low and Moderate Income”

Some people concerned about H.R. 1191 might argue that jurisdictions already spend 94% of their CDBG money in ways that benefit low and moderate income people, and that they have been achieving such high rates for many years. (HUD's 1998 Consolidated Report, page 16).

If jurisdictions are truly serving low and moderate income people at these levels, then there should be no objection to raising the “primary objective” to 80%. However, low income residents of cities and towns all across the nation counter that they do not see genuine benefits at such high levels.

In part, the reason that some jurisdictions can claim that 94% of CDBG benefits low and moderate income people is because two features in the law or regulations inflate the “benefits” accounting, giving an impression that low and moderate income people are benefiting.

The first feature inflating the benefit claim is the definition of “low and moderate income”: 80% of the areawide median income. This figure can be very high. In FY 2002 the median income nationally is \$54,400. The areawide median income in Stamford CT is \$115,500; 80% is \$64,550. In Washington, D.C. the median is \$91,500; but, as in most places, HUD “caps” the “low and moderate income” level in DC at the national median (\$54,400). By comparison, the poverty level for a four-person household is \$18,100. Nevertheless, H.R. 1191 does not propose to address this aspect of the problem.

The second feature inflating the benefit claim is the methodology that HUD's regulations use to determine the extent of benefit to low and moderate income people for a given activity. H.R. 1191 seeks to eliminate this feature of accounting inflation, but discussion of this is postponed until topic B below.

“Flexibility Would Be Lost”

Some might also argue that raising the “Primary Objective” to 80% will limit jurisdictions’ flexibility to use CDBG money as they see fit. The only other real option available in the law is to use CDBG to address “slums and blight”. [Technically, there is a third option, meeting an “urgent need”, which is essentially limited to natural disasters.]

However, given the affordable housing crisis and other acute needs of low income people, it is imperative that Congress ensure that CDBG be used to “principally” address their critical needs.

The use of CDBG to address “slums and blight” tends to harm low income people, or at a minimum, exacts a high opportunity cost on low income people. For instance:

- Slums and blight is used for repairs to museums and theaters. In addition to the \$243,000 for museum repairs in Scranton PA already mentioned, nearly \$600,000 was used to renovate the Ritz Theater in downtown Sanford FL, where theater tickets cost \$35. Public housing residents nearby fear that development pressure resulting from this use of CDBG will lead to the demolition of their homes.
- A decorative design was placed in the surface of a highway intersection in Dunkirk, NY at the cost of \$90,000 (out of an annual allocation of \$700,000).
- St. Mary's County, MD applied to the State of Maryland for nearly \$600,000 of CDBG to demolish 144 affordable housing units in order to create commercial office buildings; another 198 units would have also been threatened by subsequent phases of this project. No provision was made for low income residents who face an increasingly expensive housing market.

B. Proportional Treatment of Benefit to Low and Moderate Income People

The Problem

There are actually two related problems, one in the statute and one in HUD's regulations.

Statutory Problem

One reason that many jurisdictions can claim that over 90% of their CDBG expenditures benefit low and moderate income people is due to the law's silence which allows 100% of CDBG money spent on non-housing activities to count as "benefiting" lower income people, even if only 51% of the beneficiaries are low or moderate income. This waters down the spirit of targeting in the statute.

For example, if a jurisdiction spends \$500,000 on a road improvement in a census tract where 53% of the households are low or moderate income, that jurisdiction reports to HUD that all \$500,000 of its CDBG benefits low and moderate income people, rather than the proportionate amount of \$265,000 ($\$500,000 \times .53$). This lack of proportional treatment "inflates" the benefit report by \$235,000.

Regulatory Problem

For housing activities, the statute is not silent; it does require proportional treatment. However, HUD's regulations contribute to "benefit inflation" in the use of CDBG for housing activities by calculating "benefit to low and moderate

income people" using "total development cost" (not just the amount of CDBG in the activity).

For example, consider a 100-unit project with a total development cost of \$1 million, but with only \$400,000 coming from CDBG (meaning that the remaining \$600,000 comes from other, non-CDBG sources). If 60 units of the total 100 units (60%) are occupied by low and moderate income people, then (using HUD's regs) \$600,000 (\$1 million x .60) is counted as benefiting low or moderate income people – instead of \$240,000 (\$400,000 of CDBG x .60). In this example, “benefit” is inflated by \$360,000.

Activity by activity, without clear proportional treatment, jurisdictions can readily give the impression that 94% of CDBG is benefiting low and moderate income people, when in fact it might really be far less.

Current Law

The statute is currently silent regarding proportional treatment regarding CDBG activities either serving an area generally or claiming to provide job opportunities. Specifically, the statute does not directly require that the "benefit" to low income people be measured by the percentage of CDBG funds actually benefiting low and moderate income people for any given non-housing activity. While the law does require proportional treatment regarding housing activities, HUD regulations dilute the law's intent.

Proposed Change

H.R. 1191 would explicitly require that "benefit" to low income people be measured by the percentage of CDBG funds actually benefiting low and moderate income people for any given housing, jobs, or area benefit activity.

Eliminating “benefit inflation” is a reasonable, bipartisan approach to achieving Congressional intent. Anna Kondratas, Assistant Secretary for Community Planning and Development in the first Bush Administration, was a strong advocate of “proportionate accounting”; she proposed modifying the Act in this way to realize greater targeting to lower income people.

How the Change Will Help Low Income People

The bill proposes a clear proportional treatment of activities in order to diminish "benefit inflation", reinforcing the desire of Congress to target CDBG money "principally" to low and moderate income people.

CCC's Views Regarding Concerns That Might Be Raised

See next page

CCC's Views Regarding Concerns That Might Be Raised

Some have misinterpreted the impact of "proportionate accounting", believing that for each and every activity 70% of those benefiting would have to be lower income people. This is a mistaken reading of H.R. 1191.

As currently written, the Act requires that, considering all activities of a jurisdiction, 70% of the funds benefit lower income people. H.R. 1191's proportionate accounting principles would simply recognize and account for the actual benefit realized by any given areawide or job creation activity. For instance, one areawide activity of a jurisdiction might only provide 59% benefit to lower income people, but another might compensate in the overall accounting by providing 100% benefit.

C. Limit Use of the "Area Benefit Test" to Residential Areas in order to Increase Targeting to Low and Moderate Income People

The Problem

Generally, downtown areas have relatively few residents, but because most of those residents are low income, it was possible for jurisdictions to assert that downtown areas were "primarily" lower income. Consequently, CDBG money financed roads, parking garages, parks, and streetscapes which clearly did not serve the low income residents of downtown areas.

To correct this, many years ago HUD's regulations limited the use of the "area benefit test" to areas which are "primarily residential in character". Despite the HUD regulation, jurisdictions continue to use CDBG in downtown areas for roads, parks, fire protection, streetscapes, etc., justifying the use as benefiting low and moderate income people -- when in fact they primarily serve daytime business visitors downtown.

For example, Binghamton NY spent \$311,954 on repairing a major arterial street in its central business district, and Wheeling WV spent \$275,000 for bridges into and out of the central business district. Bakersfield CA has allotted \$200,000 for the first phase of its "Downtown Streetscape".

Current Law

When assessing whether an activity is considered to benefit low and moderate income people, HUD utilizes one of four tests, depending on the nature of the activity. Many activities serve people directly, such as housing; but others benefit the population broadly by serving an area in general. For example roads and parks can be used by anyone.

The statute requires that activities serving an area generally be "clearly designed to meet identified needs" of low and moderate income people in the area.

To determine whether an activity like a road might primarily benefit low and moderate income people, HUD uses the "area benefit test" which looks at the relative proportion of low and moderate income people living in the area served by the road. If 51% of the residents in the "service area" are low and moderate income people, then HUD assumes, absent evidence to the contrary, that low and moderate income people benefit.

In the spirit of the law, HUD's regulations have long specified that the area must be "primarily residential in character".

Proposed Change

H.R. 1191 merely introduces the current regulatory language into the law, limiting the "area benefit test" to those areas which are "primarily residential in character".

How the Change Will Help Low Income People

The bill signals Congressional intent to better target CDBG to low and moderate income people by highlighting current regulatory language in the statute. HUD is not enforcing this provision of its own regulations; introducing the existing regulatory language in to the statute is likely to lead to better HUD enforcement.

CCC's Views Regarding Concerns That Might Be Raised

This provision of the bill will not necessarily limit the use of CDBG in the downtown areas of small communities, nor will it limit the use of CDBG to help revitalize neighborhood commercial areas.

When assessing whether the areawide benefit test is met, HUD has long looked at the "service area" of the assisted activity. If that service area is primarily residential in character, and if the activity is such that it provides the kinds of goods or services actually needed by lower income people, then there should not be any problem.

For example, in a 20 block area consisting of 15 blocks which are lower income residential in character and 5 blocks which are commercial, the areawide benefit test could still be met if the commercial facilities are providing goods and services needed by and utilized by lower income people. On the other hand, if those 5 blocks of commercial facilities are hi-end restaurants, boutique clothing stores featuring expensive items, or tourist attractions, then the "service area" aspect of the areawide benefit test would not be met.

D. Looking at “Who Really Benefits” in order to Increase Targeting to Low and Moderate Income People

The Problem

Just because an activity is located in a service area where a minimum of 51% of the households are low and moderate income, that does not necessarily mean that low and moderate income people are the "primary" beneficiaries.

For example, a \$225,805 CDBG street in Benton Harbor MI ran from a major arterial road (linked to the interstate) through a very poor neighborhood and straight to a pleasure boat marina. In Scranton PA, \$130,000 was allotted to repair a bridge which, while in a lower income census tract, is primarily used by downtown workers to get to a major highway. Binghamton NY, allocated zero CDBG dollars for homeless activities, but spent \$75,000 to cover a 1920s-era carousel in the middle of that town's central park. Fresno CA has allocated \$532,000 for streets and sidewalks in its central park which features a zoo and other attractions promoted on hotel television channels.

Current Law

CDBG law currently declares that if an activity is to serve an area generally, it must also "clearly be designed to meet identified needs of persons of low and moderate incomes in such areas".

HUD regulations do a good job of interpreting this feature of the law by saying that in assessing any claim that an activity benefits low and moderate income people, "the full range of direct effects of the assisted activity will be considered".

HUD and jurisdictions have ignored the law. HUD has avoided implementing its own regulations when low income people have offered compelling evidence that when looking at the "full range of direct effects", low income people were not the primary beneficiaries.

Proposed Change

H.R. 1191 will reinforce targeting to low and moderate income people by introducing the existing language from HUD's regulations into the statute.

E. Ensuring that Low and Moderate Income People Benefit from Economic Development Activities

The Problem

In general, the law requires that businesses getting CDBG assistance ensure that 51% of any jobs created or retained be for low and moderate income people. However, there is an exception that can undermine the intent to target CDBG to principally benefit low and moderate income people by "presuming" benefit in certain situations.

Current Law

The law "presumes" low and moderate income people benefit from the use of CDBG money used by businesses if those businesses are located in a census tract that meets the definition of a federal empowerment zone. The law also presumes anyone hired by a CDBG-assisted business is a low or moderate income person if the employee lives in a census tract that meets that empowerment zone definition or is tract with at least 70% low and moderate income residents.

Proposed Change

H.R. 1191 will eliminate the presumption of low and moderate income benefit.

How the Change Will Help Low Income People

Mere location of a business is not a sufficient indicator of benefit to low and moderate income people. Likewise, where a person lives is not a reliable indicator of whether they are low or moderate income.

HUD does not require unduly detailed documentation of someone's household income prior to employment at a CDBG-assisted business. A simple self-certification on the part of the potential employee is adequate, and is not a significant burden to the firm.

Eliminating the "presumption" of low income benefit will strengthen Congress's intent that CDBG be used in ways that principally benefit low and moderate income people. It will also allow low income residents and advocates an opportunity to ensure that firms and jurisdictions are accountable to the public.

Given the recent changes in welfare law and the current emphasis on "work first", it is necessary to ensure that federal assistance to businesses meet the pressing public purpose of making jobs available for lower income people.

CCC's Views Regarding Concerns That Might Be Raised *see next page*

CCC's Views Regarding Concerns That Might Be Raised

- *Some might argue that "This is a paperwork burden on businesses."*
However, a simple self-certification is all that is needed and should be easy to administer.
- *Some have claimed that "HUD requires W-2 forms."*
The regulations do not require such detailed documentation.
- *Some might worry that "This will scare away business."*
If all jurisdictions must comply, businesses can not exploit CDBG to take advantage of jurisdictions' tendency toward "smoke-stack chasing".

Also, in return for a grant or a below market interest rate loan from the federal government and local government, the business, as a good corporate citizen, should be willing to cooperate at this modest level in order to ensure realization of a public benefit -- job opportunities for low income people.

- *Some have asserted that "This is invading the privacy of the job applicant."*
Low income people are accustomed to income verification. Low income people seeking employment opportunities will gladly sign a paper saying that their household income is below 80% of the areawide median.
- *Some might claim that this imposes a hiring "quota" on firms.*
Of course this is not true. For years the Act has generally required a minimum of 51% of any jobs created or retained to be held by or be available to lower income people. [Section 105(c)(1)(C)]
- *Some might believe that H.R. 1191 would require that 70% of all jobs be filled by lower income people.*
This is not correct; it is a misreading of the bill. The change proposed by H.R. 1191 would merely remove the "presumption" that certain business assistance benefits lower income people. At a minimum, only 51% of the jobs would have to be for lower income people – those in great need of economic opportunities.

F. Introducing a Second Tier of Targeting to "Low" Income People in order to Enhance Targeting

The Problem

Jurisdictions' Consolidated Plans universally identify the needs of those with incomes below 50% of the median as being by far the greatest needs. However, there is currently no mechanism to prevent jurisdictions from spending all or most of their CDBG money for households at the relatively high level of 80% of the areawide median income (\$54,400). Consequently, jurisdictions evade addressing the more severe needs of "extremely low" income people (those with income below 30% of the median, \$16,320) and "low" income people (income between 30% and 50% of the median, \$27,200).

Housing advocates across the nation note that CDBG money is not allocated for extremely low income and low income households commensurate with their housing and homeless needs.

Current Law

There is nothing in the current statute to preclude jurisdictions from ignoring their Consolidated Plans and allocating CDBG funds in a fashion that fails to fairly address the housing and community development needs of people who have the most severe needs.

Regulations have long included an admonition to ensure that activities do not benefit moderate income people to the exclusion of low income people. However, these words are the only parenthetical expression in the entire set of CDBG regulations. Consequently, neither HUD nor jurisdictions embrace it. In addition, a literal reading of that regulatory comment implies that spending \$1 for a low income person would release a jurisdiction from further obligation to use CDBG for people with the greatest need.

Proposed Change

H.R. 1191 adds a second tier of targeting, ensuring that (at a minimum) 40% of CDBG funds directly benefit people with incomes below 50% of the areawide median income.

This second tier of targeting is a reasonable, bipartisan approach to achieving Congressional intent. Anna Kondratas, Assistant Secretary for Community Planning and Development in the first Bush Administration, was a strong advocate of greater targeting; she proposed modifying the Act by adding a second tier of targeting so that 40% of the funds would benefit people with incomes below 50% of the median.

A second tier of targeting is also consonant with the formulas in the statute for allocating CDBG to jurisdictions. These statutory distribution formulas give 75% to 83% of the numerical weight to census indicators of poverty and bad housing conditions (relegating simple population counts as unweighted factors). In other words, the more poverty-level (\$18,100) people in a jurisdiction, and the worse the housing, the more CDBG money a jurisdiction gets.

How the Change Will Help Low Income People

This will help to prevent "creaming" in the CDBG program. At a minimum, a modest, albeit inadequate, amount of a jurisdiction's CDBG funds will be used in ways that directly address the problems of those with the greatest needs.

CCC's Views Regarding Concerns That Might Be Raised

- *Some might worry that a second tier of targeting destroys the flexibility of CDBG.*

Jurisdictions will still have 60% of CDBG, roughly \$2.7 billion, to use for meeting the housing and community development needs of people with incomes between 51% and 80% of the areawide median income.

Even within the 40% targeted to low income people, jurisdictions would have a great deal of flexibility regarding the types of activities to undertake. The types of activities that could be funded would remain unchanged. Housing would not be the only activity available to fund. Other types of activities suitable in the context of a second tier of targeting include:

- infrastructure activities that directly support housing or economic development activities which principally benefited low income people;
 - any job creation assistance for businesses;
 - facilities such as day care centers, homeless shelters, domestic violence shelters, etc., as long as direct benefit can be established;
 - public services such as job training, transportation to jobs, day care, etc. for which direct benefit can be established.
- *Some might argue that the second tier of targeting will limit local decision-making; some might even speculate that it will reduce public participation.* Low income people have long identified their most pressing needs, to little or no avail. Low income people have been effectively shut out of the local decision-making process. Targeting a modest portion of CDBG to low income people might help to open the local CDBG decision-making process to those most knowledgeable – low income people.

As stated above, local elected officials and jurisdiction staff can still be very much involved in the decision-making regarding both the 40% component and well as the 60% balance.

- *Some might argue that a second tier of targeting would convert the CDBG Program into an “antipoverty” program.*

The Housing and Community Development Act has always sought to “principally” benefit low and moderate income people. However, low income people have not seen their fair share of the program’s funds. A second tier of targeting would not be a fundamental shift in the Program; on the contrary, a second tier would help to establish a balance in the program which is consonant with its historic Primary Objective, as well as with its weighted allocation formulas.

H.R. 1191 is merely seeking to ensure that a modest amount of this resource is used to meet the most pressing needs of people with the most severe problems. Given the severe lack of affordable housing, the demolition of much affordable housing, the lack of public housing, the inability of many to use Section 8 vouchers, and pressures from welfare reform, it is appropriate to devote a portion of CDBG to meeting the needs of those whose incomes are below \$27,200 – far above the poverty line of \$18,100.

The needs of those with incomes below \$27,200 are far greater than those with incomes at \$54,400, and the alternative resources available to those with \$27,200 are far fewer. The difficulties are compounded by those whose income is below the poverty level of \$18,100 or below 30% of the areawide median, \$16,000.

G. Improve Public Participation by Defining “Public Hearing”

The Problem

Low income people and advocates often complain that “public hearings” are conducted by the staff of a jurisdiction, that local elected officials are not present. This undermines the intent of a public hearing.

In Dubuque Iowa several years ago, not even jurisdiction staff were present; they merely set up a video camera for the public to “speak” to. More recently in Lynn MA, low income residents attended a “public hearing” conducted by a “community advisory board” and City staff. No minutes were taken at this “public hearing,” and City staff told those present that their comments were not going to be conveyed to any elected officials.

Elected officials are the ones who are accountable to the public and who are ultimately responsible for CDBG. When “public hearings” are conducted without elected officials present, the ideas, concerns, and priorities of low income people are not conveyed to those most responsible -- elected officials.

Written comments do not convey to the reader the number of people truly concerned, and do not always effectively hint at the gravity of concern. In addition, many low income people do not feel as confident about writing as they do about speaking. Sometimes written comments do not get forwarded to elected officials.

Current Law

The statute declares that one of the purposes of the various public participation provisions is "to enhance the public accountability of grantees". The law also calls on jurisdictions to "encourage" public participation. In addition, the statute requires jurisdictions to "provide public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance".

Responding to the problem of many "public hearings" failing to be conducted by local elected officials, in 1994 advocates wrote comments to HUD regarding proposed regulations. HUD replied in the preamble to the final regulations, stating:

"Formal public hearings in local government require city council members to be present and for comments to be tape recorded. The requirement for public hearing has been in the CDBG statute for many years, and HUD has not found it necessary to define what this means. Public hearings are governed by state and local law." [FR Vol. 60, No. 3, January 5, 1995, page 1888]

Still, the body of the regulations, do not define "public hearing", resulting in the type of problem recently experienced in Lynn.

Proposed Change

H.R. 1191 will ensure that the required public hearings are more meaningful by explicitly referring to local or state law.

How the Change Will Help Low Income People

Public hearings are one component of basic democratic practice. Public hearings conducted by elected officials are especially important for low income residents if they are to have a modest impact on public decision-making. Elected officials must know what people are thinking and must sense the degree of public enthusiasm or discontent. Public hearings conducted by elected officials are an extremely important vehicle for empowering low income people. Not all people will necessarily want to speak at public hearings, but they can be present in support of those speaking – showing support by wearing buttons or ribbons, etc. Numbers do count in local public decision-making.

CCC's Views Regarding Concerns That Might Be Raised

Some might argue that, "No one shows up at public hearings." Others might say that the only ones "participating" are nonprofits seeking CDBG money.

To the extent that few people might show up, this is a reflection of the negative experiences that they have encountered over the years. When there is no record of a "public hearing", when it is clear that elected officials will not be informed of verbal or written comments, public participation is not "encouraged" as required by law; rather, public participation is discouraged.

It might take some time to rebuild public confidence and to demonstrate that a jurisdiction is sincere in fostering genuine public participation, but patience is warranted because democratic principles – as exercised in the free exchange between elected officials and the populace – are at the core of our nation.

Another idea for increasing genuine public participation is discussed in the following section.

G. Improve Public Participation by Making the Use of CDBG for Monitoring or Conducting Public Participation Activities by Nonprofits as Specifically Eligible Activities.

The Problem

Low income community groups do not have enough resources to help low income people fully participate in the CDBG public participation process. Although CDBG can be given to nonprofits to provide information to residents and to monitor a jurisdiction's CDBG program, few groups secure funding for this purpose.

The main problem is that this use of CDBG is "eligible" under the categories of "administration" or "planning", which are subject to an overall cap of 20% of a jurisdiction's CDBG amount. Because jurisdictions pay their staff out of this 20% cap, allocating CDBG money to nonprofits to monitor the jurisdiction or to foster public participation can be doubly resented by jurisdictions' staff. First, it can be perceived as taking money out of their pockets. Second, it can be nettlesome to jurisdictions' staff, as community development experts, to be open to the ideas of members of the general public. Given that double-whammy, it is very difficult for groups to get CDBG money to monitor their jurisdictions or to foster public participation.

In addition, low income people and advocates across the nation continue to encounter resistance to full and genuine public participation. The hostility and antagonism from jurisdictions that is experienced by low income people works to actively discourage participation.

Current Law

Public participation has been a core feature of the CDBG program since its inception. In the statute Congress declares that it seeks to "enhance public accountability" through various public participation activities. The statute also requires jurisdictions to not only provide for public participation, but to "encourage" public participation, particularly participation by low income people.

Current law allows CDBG to be used for providing information to the public so that low income people can more fully participate in the planning for and carrying out of CDBG activities. However, no more than 20% of a jurisdiction's CDBG amount can be used for overall administration and planning, the category under which resources to foster public participation is currently lodged. Jurisdictions pay their own staff out of this category.

Proposed Change

H.R. 1191 designates as a specifically "eligible activity", the allocation of CDBG to private, nonprofit groups representative of low income people to promote or provide public participation, and/or to monitor a jurisdiction's CDBG program. The bill also removes this use of CDBG from any of the "caps" in CDBG (the 20% administration and planning limit, and the 15% public service limit).

How the Change Will Help Low Income People

In order to improve democratic practices, increase civic involvement by low income people, and to build constructive partnerships, it must be easier for nonprofit organizations representative of low and moderate income people to obtain and use CDBG for the purposes of promoting and providing public participation activities. The bill will remove one practical hindrance to jurisdictions deciding to use CDBG in this fashion.

CCC's Views Regarding Some Concerns That Might Be Raised

Some jurisdictions might say that despite their efforts, low income people do not attend meetings or hearings, or otherwise participate. Others might argue that the only ones "participating" are nonprofits seeking CDBG money.

To the extent these claims are accurate, they can be overcome by fostering public participation through funding of nonprofits that are trusted by low income people and that seem to better understand the concerns and frustrations experienced by low income people.